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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BLAKE DUGGER, individually and on behalf of all others similarly situated, Plaintiff, vs. 911 TAX RELIEF, INC., Defendant. Case No.) **CLASS ACTION**) **COMPLAINT FOR VIOLATIONS**) **OF:**) 1. NEGLIGENCE VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT [47 U.S.C. §227 ET SEQ.]) 2. WILLFUL VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT [47 U.S.C. §227 ET SEQ.]) **DEMAND FOR JURY TRIAL**)

Plaintiff Blake Dugger (“Plaintiff”), individually and on behalf of all others similarly situated, alleges the following upon information and belief based upon

1 personal knowledge:

2 **NATURE OF THE CASE**

3 1. Plaintiff brings this action individually and on behalf of all others
4 similarly situated seeking damages and any other available legal or equitable
5 remedies resulting from the illegal actions of 911 Tax Relief, Inc. (“Defendant”),
6 in negligently, knowingly, and/or willfully contacting Plaintiff on Plaintiff’s
7 cellular telephone in violation of the Telephone Consumer Protection Act, 47.
8 U.S.C. § 227 *et seq.* (“TCPA”), thereby invading Plaintiff’s privacy.

9 **JURISDICTION & VENUE**

10 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
11 a resident of California, seeks relief on behalf of a Class, which will result in at
12 least one class member belonging to a different state than that of Defendant, a
13 company with its principal place of business in the state of California, City of Los
14 Angeles. Plaintiff also seeks up to \$1,500.00 in damages for each call in violation
15 of the TCPA, which, when aggregated among a proposed class in the thousands,
16 exceeds the \$5,000,000.00 threshold for federal court jurisdiction. Therefore,
17 both diversity jurisdiction and the damages threshold under the Class Action
18 Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

19 3. Venue is proper in the United States District Court for the Central
20 District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a)
21 because Defendant does business within the state of California and Plaintiff
22 resides within the county of Los Angeles.

23 **PARTIES**

24 4. Plaintiff, Blake Dugger (“Plaintiff”), is a natural person residing in
25 Los Angeles, California and is a “person” as defined by 47 U.S.C. § 153 (10).

26 5. Defendant, 911 Tax Relief, Inc. (“Defendant”), is in the business of
27 providing consumers who are indebted to the IRS with help in becoming debt free
28 and is a “person” as defined by 47 U.S.C. § 153 (10).

FACTUAL ALLEGATIONS

6. Beginning in or around April 1, 2015, at 10:58 a.m., Defendant contacted Plaintiff on his cellular telephone number ending in 2003, in an attempt to solicit Plaintiff Defendant's services with respect to assisting in the resolution of any debt-related issue with the IRS.

7. Defendant used an “automatic telephone dialing system”, as defined by *47 U.S.C. § 227(a)(1)* to place its call to Plaintiff seeking to solicit its services.

8. Defendant's calls constituted calls that were not for emergency purposes as defined by *47 U.S.C. § 227(b)(1)(A)*.

9. Defendant's calls were placed to telephone number assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls pursuant to *47 U.S.C. § 227(b)(1)*.

10. Plaintiff is not a customer of Defendant's services and has never provided any personal information, including his cellular telephone number, to Defendant for any purpose whatsoever. Accordingly, Defendant never received Plaintiff's "prior express consent" to receive calls using an automatic telephone dialing system or an artificial or prerecorded voice on his cellular telephone pursuant to *47 U.S.C. § 227(b)(1)(A)*.

CLASS ALLEGATIONS

11. Plaintiff brings this action individually and on behalf of all others similarly situated, as a member of the proposed class (hereafter “The Class”) defined as follows:

All persons within the United States who received any solicitation/telemarketing telephone calls from Defendant to said person's cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously consented to receiving such calls within the four years prior to the filing of this Complaint

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2 12. Plaintiff represents, and is a member of, The Class, consisting of All
3 persons within the United States who received any marketing/solicitation
4 telephone calls from Defendant to said person's cellular telephone made through
5 the use of any automatic telephone dialing system or an artificial or prerecorded
6 voice and such person had not previously not provided their cellular telephone
7 number to Defendant within the four years prior to the filing of this Complaint.

8 13. Defendant, its employees and agents are excluded from The Class.
9 Plaintiff does not know the number of members in The Class, but believes the
10 Class members number in the thousands, if not more. Thus, this matter should be
11 certified as a Class Action to assist in the expeditious litigation of the matter.

12 14. The Class is so numerous that the individual joinder of all of its
13 members is impractical. While the exact number and identities of The Class
14 members are unknown to Plaintiff at this time and can only be ascertained
15 through appropriate discovery, Plaintiff is informed and believes and thereon
16 alleges that The Class includes thousands of members. Plaintiff alleges that The
17 Class members may be ascertained by the records maintained by Defendant.

18 15. Plaintiff and members of The Class were harmed by the acts of
19 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
20 and Class members via their cellular telephones thereby causing Plaintiff and
21 Class members to incur certain charges or reduced telephone time for which
22 Plaintiff and Class members had previously paid by having to retrieve or
23 administer messages left by Defendant during those illegal calls, and invading the
24 privacy of said Plaintiff and Class members.

25 16. Common questions of fact and law exist as to all members of The
26 Class which predominate over any questions affecting only individual members
27 of The Class. These common legal and factual questions, which do not vary
28 between Class members, and which may be determined without reference to the

1 individual circumstances of any Class members, include, but are not limited to,
2 the following:

- 3 a. Whether, within the four years prior to the filing of this
4 Complaint, Defendant made any telemarketing/solicitation call
5 (other than a call made for emergency purposes or made with
6 the prior express consent of the called party) to a Class
7 member using any automatic telephone dialing system or any
8 artificial or prerecorded voice to any telephone number
9 assigned to a cellular telephone service;
- 10 b. Whether Plaintiff and the Class members were damages
11 thereby, and the extent of damages for such violation; and
- 12 c. Whether Defendant should be enjoined from engaging in such
13 conduct in the future.

14 17. As a person that received numerous telemarketing/solicitation calls
15 from Defendant using an automatic telephone dialing system or an artificial or
16 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting
17 claims that are typical of The Class.

18 18. Plaintiff will fairly and adequately protect the interests of the
19 members of The Class. Plaintiff has retained attorneys experienced in the
20 prosecution of class actions.

21 19. A class action is superior to other available methods of fair and
22 efficient adjudication of this controversy, since individual litigation of the claims
23 of all Class members is impracticable. Even if every Class member could afford
24 individual litigation, the court system could not. It would be unduly burdensome
25 to the courts in which individual litigation of numerous issues would proceed.
26 Individualized litigation would also present the potential for varying, inconsistent,
27 or contradictory judgments and would magnify the delay and expense to all
28 parties and to the court system resulting from multiple trials of the same complex

1 factual issues. By contrast, the conduct of this action as a class action presents
2 fewer management difficulties, conserves the resources of the parties and of the
3 court system, and protects the rights of each Class member.

4 20. The prosecution of separate actions by individual Class members
5 would create a risk of adjudications with respect to them that would, as a practical
6 matter, be dispositive of the interests of the other Class members not parties to
7 such adjudications or that would substantially impair or impede the ability of such
8 non-party Class members to protect their interests.

9 21. Defendant has acted or refused to act in respects generally applicable
10 to The Class, thereby making appropriate final and injunctive relief with regard to
11 the members of the Class as a whole.

12 **FIRST CAUSE OF ACTION**

13 **Negligent Violations of the Telephone Consumer Protection Act**

14 **47 U.S.C. §227 et seq.**

15 22. Plaintiff repeats and incorporates by reference into this cause of
16 action the allegations set forth above at Paragraphs 1-21.

17 23. The foregoing acts and omissions of Defendant constitute numerous
18 and multiple negligent violations of the TCPA, including but not limited to each
19 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

20 24. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
21 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in
22 statutory damages, for each and every violation, pursuant to *47 U.S.C. §*
23 *227(b)(3)(B)*.

24 25. Plaintiff and the Class members are also entitled to and seek
25 injunctive relief prohibiting such conduct in the future.

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SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

26. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-21.

27. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

28. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

29. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).
- Any and all other relief that the Court deems just and proper.

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SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

Respectfully Submitted this 23rd Day of April, 2015.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman

Todd M. Friedman

Law Offices of Todd M. Friedman

Attorney for Plaintiff